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1                   UNITED STATES DISTRICT COURT  
2                   DISTRICT OF MASSACHUSETTS  
3                   IN ADMIRALTY

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7                   GREAT LAKES INSURANCE SE

8                   vs.

4:20-cv-40020-DHH

9                   MARTIN ANDERSSON

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14                   DEPOSITION BY ZOOM OF OTTO A. GEIGER, a witness  
15                   called on behalf of the Plaintiff, pursuant to the  
16                   Rules of Civil Procedure, before Karen D. Pomeroy,  
17                   Registered Diplomate Reporter and Notary Public in  
18                   and for the Commonwealth of Massachusetts, at 355  
19                   City View Drive, Fort Lauderdale, Florida, on  
20                   Wednesday, March 16th, 2022, commencing at 9:02 a.m.

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0002

1                   APPEARANCES:

2                   MICHAEL I. GOLDMAN, ESQUIRE  
3                   Goldman & Hellman  
4                   233 Harvard Street, Suite 211  
5                   Brookline, Massachusetts 02446  
6                   For the Plaintiff

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9                   MICHELLE M. NIEMEYER, ESQUIRE  
10                   Michelle M. Niemeyer, PA  
11                   244 Biscayne Boulevard No. 3009  
12                   Miami, Florida 33132  
13                   For the Defendant

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13 EXHIBITS

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24 Exhibit Attached

0004

1 STIPULATIONS

2 It is stipulated by and between counsel for  
3 the respective parties that the deposition  
4 transcript is to be read and signed by the  
5 deponent under the pains and penalties of  
6 perjury; and that the sealing and filing thereof  
7 are waived; and that all objections, except as to  
8 form, and motions to strike are reserved until  
9 the time of trial.

10 \* \* \*

11 OTTO A. GEIGER,  
12 having been duly remotely sworn by the  
13 reporter, was deposed and testified as  
14 follows:

15 EXAMINATION

16 BY MR. GOLDMAN:

17 Q. Good morning, Captain Geiger.

18 A. Good morning.

19 Q. Is that the proper title to address you with?  
20 Captain.

21 A. Captain; Otto; any way you like.

22 Q. Splendid. All right. For the record, my name's  
23 Michael Goldman. I'm from the law firm of  
24 Goldman & Hellman. I represent Great Lakes

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1 Insurance in this matter, and, sir, we're here to  
2 take your deposition.

3 As Michelle knows, I have a little speech I  
4 have to give, just to make sure we get everything  
5 right and that we get a good record.

6 First, we have to obey certain courtesies  
7 with one another. We have to work as hard as we  
8 can to wait patiently for everyone to finish  
9 speaking and then speak in their own turn. Of  
10 course, this is even more important in the Zoom  
11 age where everyone talks over each other and we  
12 get interference and no one can hear a thing.

13 I'll ask you to wait patiently until I'm done  
14 phrasing my question, and I'll try my very best,  
15 of course, to be patient while you give your full  
16 answer.

17 Even though we can see each other, all your  
18 answers have to be verbal, sir. You can't nod  
19 your head, say uh-huh, shrug your shoulders,  
20 anything like that.

21 When I ask a question, please don't guess.  
22 If you know the answer, say so. And if you don't  
23 know the answer, just say so.

24 If you don't understand my question or you

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1 want me to clarify, just say so; and I'll phrase  
2 my question differently. I'll try to put a  
3 better question. The whole point is to get the  
4 clearest answers that we can.

5 If at any point you want to take a break,  
6 just ask. This isn't meant to be a test of  
7 stamina. Anytime you want to get a drink, go to  
8 the bathroom, just take five minutes to collect  
9 yourself, just say so.

10 Is everybody's phone off?

11 MS. NIEMEYER: Not mine.

12 MR. GOLDMAN: Right.

13 BY MR. GOLDMAN:

14 Q. All right. First, a warm-up round. For the  
15 record, can you please state your full name, your  
16 date of birth, and your current residential  
17 address.

18 A. It's Otto Armin Geiger. Birth date is  
19 [REDACTED] and residential address is  
20 [REDACTED] Fort Lauderdale 33311.

21 Q. Are you married?

22 A. Yes.

23 Q. Congratulations. I say that either way; no  
24 matter how they answer.

0007

1           Are you employed?  
2   A. I am.  
3   Q. Who is your current employer?  
4   A. Viking, LLC.  
5   Q. What is Viking, LLC?  
6   A. It's just a company that runs a vessel.  
7   Q. What vessel?  
8   A. It's a Viking Princess 75.  
9   Q. What do they do with it?  
10   A. It's private use only. Family use.  
11   Q. What is your role in the company?  
12   A. I'm a captain. Captain, engineer, chief bottle  
13   washer.  
14   Q. How long have you worked for them?  
15   A. In August it will be two years.  
16   Q. Have you ever been a plaintiff or a defendant in  
17   any litigation?  
18   A. No.  
19   Q. Have you ever been convicted of a crime?  
20   A. No.  
21   Q. Have you ever pled guilty or pled no contest to a  
22   crime?  
23   A. No.  
24   Q. Are you a high school graduate?

0008

1   A. Yeah.  
2   Q. Where did you go to high school? Excuse me for  
3   interrupting. Go ahead; answer?  
4   A. Hillcrest High School in South Africa.  
5   Q. Do you have any post-high school education?  
6   A. No, unless you count mariner certifications.  
7   Q. Good. We'll get to that. Do you have any kind  
8   of professional licenses or certifications?  
9   A. I'm not sure I understand your question.  
10   Q. Well, for instance, in order to practice law, I  
11   have to go to law school and get a degree, and  
12   then I also have to pass the bar exam.  
13        In order to practice your trade, do you have  
14   to obtain any sort of certifications or permits  
15   or licenses like that?  
16   A. Correct. I have to have a captain's license.  
17   Q. Who issued you your captain's license?  
18   A. I've got South African sailing licenses; a  
19   Yachtmaster Ocean, which is celestial navigation,  
20   the highest one you can get, which is equivalent  
21   to a Royal Yachting Association license.  
22        I also have a Royal Yachting Association  
23   license which is endorsed by the MCA, which is  
24   the Maritime and Coastguard Agency in the UK; and

0009

1 that's up to 200 tons.  
2 Q. Looking at your resumé with reference to that,  
3 what is a Viking Princess 75?  
4 A. It's a motor yacht. A flybridge motor yacht.  
5 Q. Did anyone else serve on that vessel with you?  
6 A. No.  
7 Q. Was there any crew on the vessel while you were  
8 serving on board?  
9 A. I'm still serving on board.  
10 Q. Is there any crew serving on the vessel  
11 currently?  
12 A. No.  
13 Q. On your resumé, where it references that you're a  
14 captain/engineer of a Viking 75, what does the  
15 next part of that statement mean, towing a  
16 31-foot center console?  
17 A. It means I tow a center console -- 31-foot center  
18 console when we go away.  
19 Q. Where do you tow it from?  
20 A. From Fort Lauderdale to wherever the owner wants  
21 to go.  
22 Q. Who's the owner?  
23 A. The company I gave you, Viking 5 LLC.  
24 Q. Continuing to go through your resumé. From

0010

1 January 2020 to July 2020, what kind of vessels  
2 did you serve aboard?  
3 A. From January 2020 -- can you pull up the resumé  
4 so I can look at it.  
5 MR. GOLDMAN: Let's -- I wasn't going to do  
6 it until later, but let's enter it as an exhibit.  
7 THE WITNESS: Okay.  
8 MR. GOLDMAN: And -- I'm sorry. I don't have  
9 the ability to project it.  
10 Do you, Michelle?  
11 MS. NIEMEYER: It should be part of our Zoom  
12 capability. Hold on. Let me see.  
13 THE WITNESS: Wait. I think I have a copy of  
14 it. Let me have a look here.  
15 MR. GOLDMAN: Let's go off the record for a  
16 moment.  
17 THE WITNESS: Okay. So you want January  
18 2020. Various deliveries and sea trials for the  
19 major yacht brokers and private individuals.  
20 Okay. I'm prepared to answer.  
21 MR. GOLDMAN: Mr. Geiger, hold on a second.  
22 I'm sorry. I said we were going to go off the  
23 record; so I don't want to start again until I  
24 verify that we are back on the record.

0011

1       Thank you, Karen. We just got the thumbs up.  
2       So let me start my question again, Mr. Geiger.  
3       Let me state it again, and then you can answer.

4 BY MR. GOLDMAN:

5 Q. From January 2020 to July 2020, what kind of  
6       vessels did you serve aboard?  
7 A. Various catamarans; motor yachts. Most of the  
8       vessels I move around were going in for repair or  
9       being moved to various destinations by brokers or  
10      new owners. Either they're going in for repair,  
11      or they're getting relocated to a different  
12      address.  
13 Q. Where did you deliver these vessels to?  
14 A. All over. Some are local. Like I can move them  
15      between like a dock in Fort Lauderdale to a  
16      different dock in Fort Lauderdale, or I'd be  
17      taking vessels from Fort Lauderdale down to the  
18      Caribbean or from Fort Lauderdale to Texas;  
19      Fort Lauderdale up to Maine.  
20      Various destinations. I move boats  
21      worldwide.  
22 Q. During any of these trips, did you ever sail  
23      single-handed on a three-day voyage?  
24 A. I did a delivery of a 36-foot Hunter sailboat

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1       single-handed from Cape May to Cape Cod.  
2 Q. I didn't hear from where to where. Can you  
3      repeat that. It was a bad connection for a  
4      moment.  
5 A. Cape May to Cape Cod.  
6 Q. Now, I'm in Boston; so I know where Cape Cod is,  
7      but can you refresh my recollection, where is  
8      Cape May?  
9 A. New Jersey.  
10 Q. How long did that trip take you?  
11 A. That one was about I think 37 hours.  
12 Q. Have you ever been deposed before today?  
13 A. No.  
14 Q. Have you ever testified in a court as an expert  
15      witness?  
16 A. No.  
17 Q. Do you have any experience as a marine accident  
18      investigator?  
19 A. No. I'm not a surveyor.  
20 Q. Do you have any experience as a marine surveyor?  
21 A. No.  
22 Q. Do you have any experience as a marine insurance  
23      loss adjuster?  
24 A. No.

0013

1 Q. In preparation for drafting your report and for  
2 this deposition, did you review any legal  
3 treatises or legal publications analyzing the  
4 legal requirements for a vessel to be considered  
5 seaworthy?

6 A. I haven't. I've gone on my experience and what  
7 surveys have been on the table.

8 Q. I think -- I'm going to ask the question again  
9 because -- with a different emphasis, because I  
10 want to make sure we get a clear answer.

11 In preparation for drafting your report and  
12 this deposition, did you review any legal  
13 treatises, statements of law, legal publications,  
14 law review articles analyzing what courts have  
15 held to be the legal requirements for a vessel to  
16 be considered seaworthy?

17 A. No.

18 Q. Did you read any published court decisions  
19 analyzing or stating the legal requirements for a  
20 vessel to be considered seaworthy?

21 A. No.

22 MR. GOLDMAN: Let's go off the record for  
23 just a moment.

24 (Recess was taken from 9:15 a.m. until 9:17 a.m.)

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1 MS. NIEMEYER: So the issue I wanted to raise  
2 was, Michael, I know that you asked questions of  
3 Mr. Geiger or Captain Geiger about his -- whether  
4 he did legal research about the -- what  
5 seaworthiness means.

6 So that everyone is talking from the same  
7 point of view, if -- I think it would be  
8 appropriate at this point for you to enlighten  
9 him on what you expect him to under- -- to  
10 take -- what meaning are you questioning him  
11 about?

12 MR. GOLDMAN: When I get to that, I will ask  
13 further questions.

14 MS. NIEMEYER: But I just -- I don't want to  
15 have any lack of clarity if you're -- he's not  
16 here as a legal expert, as we all know; but if  
17 you're asking questions where you expect him to  
18 have an understanding that's the same as yours of  
19 what seaworthiness means, I want to make sure we  
20 have that clarified in the record so that  
21 Mr. Geiger or Captain Geiger isn't making things  
22 unclear because you're not talking about the same  
23 thing.

24 MR. GOLDMAN: When I get to that, you can be

0015

1 assured I will ask the questions.  
2 MS. NIEMEYER: All right.  
3 MR. GOLDMAN: Just one moment.  
4 (Pause in the proceedings.)

5 BY MR. GOLDMAN:

6 Q. All right. Captain Geiger, do you have in front  
7 of you your report which is titled Report of  
8 Expert Witness Otto Geiger?  
9 A. I do.  
10 Q. Have you ever seen this document before today?  
11 A. Yes.  
12 Q. Who drafted it?  
13 A. I did.  
14 Q. Who asked you to draft it?  
15 A. Michelle Niemeyer.  
16 Q. All right. Per our discussion, we'll be entering  
17 this expert report into the record as Exhibit 44.  
18 Can you please read paragraph 3 to yourself  
19 and then tell me when you're done.  
20 A. Okay. I've read it.  
21 Q. Can you tell me what the difference is between  
22 beating and a close reach?  
23 A. Beating is a more direct course into the wind.  
24 You're going in the direction that the wind is

0016

1 blowing from.  
2 Q. Turning to paragraph 5 of your report, do you  
3 know if there's anything in Mr. Andersson's  
4 testimony which states the direction of the  
5 current during any portion of his voyage?  
6 A. I don't need to look at Mr. Andersson's report to  
7 know the direction of the current.  
8 Q. That's not what I asked, sir.  
9 A. Then please say your question again.  
10 Q. Is there anything in his deposition which states  
11 the direction of the current during any portion  
12 of his voyage?  
13 Are you looking at something other than your  
14 report, sir?  
15 A. No, I'm looking at my report. Okay.  
16 Could you repeat your question.  
17 Q. Is there anything that you recall in  
18 Mr. Andersson's testimony which states the  
19 direction or the speed of the current during any  
20 portion of his voyage?  
21 A. No.  
22 Q. Are you aware that Mr. Andersson testified that  
23 at some point after departing Aruba, he changed  
24 course for Puerto Rico?

0017

1 A. Yes.  
2 Q. Do you know when in his voyage he changed course  
3 for Puerto Rico?  
4 A. I'm not a hundred percent sure.  
5 Q. Do you remember how many hours after he departed  
6 he changed course for Puerto Rico?  
7 A. As I recall, I think it's about 36 hours;  
8 somewhere around there.  
9 Q. Can you repeat that. You broke up. I didn't  
10 hear how many hours.  
11 A. I think around 36 hours.  
12 Q. Was that 56? Five-six?  
13 A. Three. Three-six.  
14 Q. Three-six. Thirty-six. Thank you.  
15 Do you know how many miles Mr. Andersson's  
16 vessel was from Aruba when he changed course for  
17 Puerto Rico.  
18 A. I'm not sure offhand, but you can extrapolate it  
19 by his statement of the speed he was doing and  
20 the direction he was heading in.  
21 Q. Do you remember -- is there anywhere in his  
22 deposition Mr. Andersson stated how fast his  
23 vessel was going?  
24 A. As I recall, it was between 8 and 9 knots.

0018

1 Q. Can you repeat that.  
2 A. As I recall, between 8 and 9 knots.  
3 Q. From Aruba, do you know Mr. Andersson's bearing  
4 from Aruba when he changed course for  
5 Puerto Rico?  
6 A. Apparently, the bearing was about 60 degrees.  
7 060.  
8 Q. How did you determine that?  
9 A. I think it's stated in the report.  
10 Q. Whose report?  
11 A. Mr. Andersson's. I think his initial talk with  
12 Mr. Ball.  
13 Q. Looking at paragraph 7 of your report, what is  
14 the basis for your statement that recreational  
15 sailors are not expected to keep a paper log  
16 during their voyages?  
17 A. It's not required by law. As my -- with modern  
18 navigational practices, your log and track is  
19 kept on the chartplotter.  
20 It traces your every movement; your track.  
21 So you know exactly where you are at any given  
22 time because it's on a screen in front of you.  
23 The old logbooks, you had to go and -- in old  
24 days before you had GPS, you had to log your

0019

1 position or estimated position; but in order --  
2 in case of an emergency with a ship going down,  
3 you could send out a mayday or pan-pan requiring  
4 assistance and give your last heading -- last  
5 bearing -- your last bearing and your last  
6 position as recorded by the log. That was the  
7 only reason for that.

8 But in today's day and age, everything's on a  
9 screen in front of you 24 hours a day. As long  
10 as your equipment is on, your position is right  
11 in front of you.

12 Q. Have you ever read any instruction manual stating  
13 that recreational sailors in the Caribbean are  
14 not expected to keep paper logs?

15 A. I haven't read an instruction that way, no, but  
16 it's not done.

17 Q. Have you ever read any educational materials  
18 stating that recreational sailors in the  
19 Caribbean are not expected to keep paper logs?

20 A. I think you just asked that question.

21 Q. I'm sorry. I didn't understand that. Can you  
22 repeat, please.

23 A. I think you've just asked that question.

24 Q. So your answer to my second question is the same

0020

1 as your first?

2 A. I do not think it is required, and I haven't read  
3 papers of it. I'm just saying what is practiced.

4 Q. Have you ever instructed a recreational sailor  
5 sailing in the Caribbean that it wasn't necessary  
6 to keep paper logs?

7 A. I have not instructed anyone to do that, no.

8 Q. Are commercial sailors expected to keep paper  
9 logs?

10 A. Commercial vessels, I'd assume so. I'm not a  
11 hundred percent sure.

12 Although they have the same modern technology  
13 that everybody else has; plus their vessels have  
14 to have AIS which tracks them automatically. By  
15 law, a commercial vessel has to have AIS.

16 Q. Do you know if the vessel's GPS or chartplotter  
17 was capable of recording the speed of the wind  
18 during any portion of the trip from Aruba to the  
19 Dominican Republic?

20 A. His chartplotter, maybe not; but the wind  
21 instruments would be able to give a reading.

22 Q. I'm sorry. Can you repeat that?

23 A. His chartplotter, I'm not sure what the  
24 capabilities of his chartplotter are; but his

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1       wind instruments would have told him the speed of  
2       the wind.

3   Q. Was his GPS capable of telling him the speed or  
4       direction of the wind?

5   A. A GPS tells you a fix. It tells you where you  
6       are. It gives you a point on the planet where  
7       you are.

8   Q. What wind instruments did Mr. Andersson have  
9       aboard his vessel?

10   A. That will be on the surveyor's report, but more  
11       than likely Raymarine.

12   Q. Do you know if the GPS, chartplotter, or any  
13       other instrument on Mr. Andersson's vessel was  
14       capable of recording the speed or the direction  
15       of the current?

16   A. No, you don't get that. Well, you can. It's  
17       possible.

18   Q. Were any of his devices on board his vessel  
19       recording the speed or direction of the current?

20   A. It wouldn't record it, but it will tell what you  
21       it is in certain plotters.

22       I just want to make a little distinction. A  
23       GPS chartplotter is a misnomer. A GPS feeds into  
24       a chartplotter.

0022

1   Q. In your opinion, at any point in Mr. Andersson's  
2       voyage from Aruba to the Dominican Republic, were  
3       the weather conditions such that the vessel could  
4       not have returned to Aruba?

5   A. At what point of his voyage?

6   Q. I'm sorry. You'll have to repeat that.

7   A. At what point of his voyage?

8   Q. On any point, could the vessel have returned to  
9       Aruba?

10   A. He could have turned around, yeah.

11   Q. Is there any point in the -- in the voyage when  
12       it could not have returned to Aruba?

13   A. No, you could return to Aruba pretty much  
14       anytime.

15   Q. Can you please read paragraph 8 of your report to  
16       yourself, and then tell me when you're done.

17   A. Okay. I'm done.

18   Q. In your report, there is -- in paragraph 8,  
19       there's a sentence that begins The recommended  
20       course to avoid Venezuelan pirates.

21   A. Yes, it's a recommended distance.

22   Q. Excuse me. Can you tell me who recommends that  
23       vessels stay at least 200 miles from Venezuela?

24   A. That would be recreational mariners who traverse

0023

1       those waters.

2       It's just prudent because of the acts of  
3       piracy and the escalation of piracy in these  
4       areas.

5       Q. In 2019, how many times did Venezuelan pirates  
6       attack recreational vessels that were more than  
7       20 miles from the coast of Venezuela?

8       A. I don't have that information on me.

9       Q. Do you know how many pirate attacks there were in  
10      that vicinity in 2018 on recreational vessels?

11      A. Again, I don't have that information in front of  
12      me. It is documented. You can get it.

13      Q. Do you know how many there were in 2017?

14      A. Not offhand. You want me to pull it up for you?

15      Q. In 2019, do you know how many times Venezuelan  
16      pirates attacked recreational vessels in the  
17      waters surrounding Aruba?

18      A. Not offhand.

19      Q. Do you know that information for 2018 or 2017?

20      A. Can I just take a break so I can go and pull up  
21      this information for you?

22      Q. No, please do not do that.

23      A. If you're asking me the questions, then it'd be  
24      better to actually pull them up so I can answer

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1       your questions.

2       Q. Please do not refer to anything else. Just  
3       answer from your memory.

4           MS. NIEMEYER: I'm going to object to this.

5           Michael, there were some articles that were  
6       provided to you that were part of the materials  
7       that Captain Geiger reviewed, and I -- as part of  
8       the disclosure, I really don't think it's  
9       appropriate for you to tell him he's not allowed  
10      to refer; and if so, I'm going to advise  
11      Captain Geiger to just don't guess and if you  
12      don't remember, reference those articles; and  
13      that's the end of that.

14      MR. GOLDMAN: That certainly is, and you're  
15      welcome to ask him on your time.

16      BY MR. GOLDMAN:

17      Q. Do you recall in 2019 how many times Venezuelan  
18      pirates attacked recreational vessels in the  
19      waters surrounding Curacao and Bonaire?

20      A. Again, I do not have that information in front of  
21      me.

22      Q. Do you recall for 2018 or 2017?

23      A. I do not have that information in front of me.

24      Q. Can you please read paragraph 11 of your report,

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1 and then tell me when you're done.  
2 A. Okay. I'm done with paragraph 11.  
3 Q. What is a daggerboard?  
4 A. It's a long, keel-like attachment that lowers  
5 down through the hull of a catamaran,  
6 specifically Catanas, to stop sideways slippage.  
7 Q. Can you explain to this landlubber the difference  
8 between a daggerboard and a centerboard?  
9 A. Well, a catamaran doesn't have a centerboard  
10 because it doesn't have a center. It has two  
11 hulls. And because it has two hulls, it doesn't  
12 need a keel which a monohull needs to stay  
13 balanced because of the sail so it doesn't blow  
14 over.  
15 So it has two hulls; so it's automatically  
16 stabilized because it's got two hulls. But that  
17 means it doesn't need the keel; so it can  
18 potentially lead to sideways slippage or moving  
19 sideways when the wind blows. So the  
20 daggerboards, which extend up to 9 feet down into  
21 the water below the vessel, stop that slippage,  
22 counteracts it on a Catana because it doesn't  
23 have a keel.

24 A vessel like a Leopard has a type of boot  
0026

1 underneath the vessel which acts as a sort of  
2 keel to stop it, which reduces the sideways  
3 slippage.  
4 Catanas extend much deeper in the water; so  
5 it acts as a keel while the boat is sailing.  
6 They have one on each hull.  
7 Q. Can you look at paragraph 15 of your report, read  
8 it to yourself, and then tell me when you're  
9 done.  
10 A. Yeah, I'm done reading it.  
11 Q. To the best of your knowledge, were the  
12 conditions in Boca Chica at the time of the  
13 grounding the same as the conditions reported by  
14 the cruise ship 60 miles away?  
15 A. They would have been the same, yes.  
16 Q. Did you check any other source to determine the  
17 weather in Boca Chica at the time of the  
18 grounding?  
19 A. I did not, but 60 miles away is not far enough to  
20 change conditions.  
21 Q. On a voyage from Aruba to the Dominican Republic,  
22 how many miles would a vessel have to travel to  
23 keep within the navigational limits permitted in  
24 Mr. Andersson's policy?

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1 A. I would need to pull up a chart to give you an  
2 accurate answer.  
3 Q. Are you familiar with the International  
4 Regulations for the Prevention of Collisions at  
5 Sea?  
6 A. Yeah.  
7 Q. Did COLREGs apply to recreational vessels?  
8 A. Yes.  
9 Q. In your expert opinion, for a vessel to be  
10 seaworthy, does the vessel have to have current  
11 accurate charts for areas that the vessel owner  
12 does not intend to navigate?

13 MS. NIEMEYER: Objection to form.  
14 Again, Michael, if you're going to on one  
15 hand ask Captain Geiger if he's done legal  
16 research and on the other ask questions about  
17 unseaworthiness, if this is the point where you  
18 reveal to him how you want to define the word  
19 seaworthiness.

20 MR. GOLDMAN: I am not revealing how I want  
21 to define seaworthiness.

22 I want him to give his answer with respect to  
23 what he thinks seaworthiness is.

24 MS. NIEMEYER: I'm going to object to the  
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1 question.

2 MR. GOLDMAN: Thank you.

3 MS. NIEMEYER: You can answer.

4 MR. GOLDMAN: Let me ask it again to make  
5 sure the record's clear.

6 BY MR. GOLDMAN:

7 Q. In your expert opinion, for a vessel to be  
8 seaworthy, must a vessel have current accurate  
9 charts for the areas that the vessel owner does  
10 not intend to navigate?

11 A. No. And I would like to elaborate on that  
12 because --

13 Q. No, thank you.

14 A. -- I am not sailing in the Caribbean and --

15 Q. No, thank you.

16 MS. NIEMEYER: He has --

17 A. -- don't carry specific charts.

18 BY MR. GOLDMAN:

19 Q. Repeat your elaboration, please, because we were  
20 all speaking over one another.

21 A. I would not be required to carry charts of the  
22 Pacific if I'm sailing in the Caribbean.

23 Q. In your expert opinion, for a vessel to be  
24 seaworthy, must a vessel have current accurate

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1 charts for the areas that the vessel owner does  
2 intend to navigate?

3 A. It would be prudent, yes.

4 MR. GOLDMAN: That's all I have. Thank you  
5 very much.

6 MS. NIEMEYER: I just have a couple of  
7 follow-up questions.

8 FURTHER EXAMINATION

9 BY MS. NIEMEYER:

10 Q. You were asked some questions about paper logs  
11 and whether they were required by recreational  
12 sailors, and specifically you were asked a  
13 question about why -- whether you have instructed  
14 recreational sailors not to keep paper logs.

15 Can you expand on that and explain why you  
16 would not have instructed a recreational sailor  
17 not to -- can you explain -- is there any reason  
18 why you would instruct them about paper logs?

19 A. Due to the fact that the chartplotters we have  
20 today record your track and every movement and on  
21 your chartplotters on your vessels your position  
22 is in front of you all the time, should you have  
23 an emergency, you read directly off the  
24 chartplotter your position, which will give you

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1 your latitude and longitude to the position that  
2 you're currently in, having a log sort of falls  
3 away. It's more of a traditional thing than it  
4 is one of necessity.

5 Like I said, in the old days, which wasn't  
6 that long ago, you needed to determine your  
7 position with a sextant or Loran-C positioning  
8 system. You never had it in front of you 24/7;  
9 so you kept a logbook so if an emergency should  
10 arise, you could refer to your last entry in your  
11 log to give out your position over the radio.

12 But in today's world with modern technology,  
13 your position is always changing in front of you.  
14 It constantly updates your position, and you can  
15 read it straight off the screen if you have an  
16 emergency straight into your radio or satellite  
17 phone.

18 So I don't personally instruct people not to  
19 keep paper logs. It's a matter of choice;  
20 personal choice. If they want to, they want to;  
21 but I have never instructed anybody not to keep  
22 them, purely because I think it's a personal  
23 choice and it's not my position to say whether  
24 they should keep one or not because I personally

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1 find it to be irrelevant and obsolete in this day  
2 and age.

3 Q. Okay. And you were asked some questions --  
4 several questions about whether it would be  
5 feasible for the vessel to return to Aruba at any  
6 given point during the voyage, and you offered  
7 that of course the vessel could have returned to  
8 Aruba; but the question I have for you is in your  
9 opinion, at the point in the voyage when  
10 Mr. Andersson made his decision to shift his  
11 course as he headed north, would it have been  
12 advisable at that point in the voyage to turn  
13 around and go back to Aruba as opposed to taking  
14 the course that he chose to take?

15 A. Let me just elaborate a little if I may on that  
16 question.

17 You could turn around and go anywhere in the  
18 Caribbean should you require it, but as Mr. Ball  
19 states in his deposition, conditions at the time  
20 that he left are pretty normal for the Caribbean  
21 at that time of the year with the trade winds and  
22 current. It's not going to change anytime soon.  
23 So his choice would be either leave the boat  
24 there indefinitely in Aruba and never leave or

0032

1 sail west to Panama and places beyond, which is  
2 the complete opposite direction that he would be  
3 going to in -- if he chose to go to Saint Martin,  
4 but due to navigational limits imposed on him by  
5 the insurance company, he has to stay within 150  
6 miles of a shoreline, makes it pretty difficult  
7 to sail against the prevailing wind and current  
8 to get to where you want to go, which is up to  
9 Saint Martin was his original intended  
10 destination. Whereas, if he wasn't required to  
11 stay within those navigational limits of 150  
12 nautical miles and he went due north, he could  
13 island hop from island to island and pick up  
14 relative shelter in the lee of the islands and  
15 made a much safer passage that way.

16 I don't understand why the insurance  
17 company -- I think the insurance company puts a  
18 150 nautical mile navigational limit for US  
19 waters because that's what their workbook, but  
20 they don't seem to understand waters of the  
21 Caribbean or offshore.

22 I mean, when you're in deep offshore, you're  
23 highly unlikely to hit something or run into  
24 something because you're just in deep ocean and

0033

1 the swells usually flatten out in deep water; but  
2 when you go into shallow water, it becomes a  
3 little bit more of an obstacle.

4 Q. Okay. So, again, would it in your opinion have  
5 been -- if you were faced with the choice that  
6 Martin Andersson was faced with at the point  
7 where he made the decision to change his course  
8 in rough conditions and with a seasick crew  
9 member, would you have -- do you believe it would  
10 have been a better choice to go back to Aruba or  
11 to shift his course the way he did?

12 A. Shifting of course more northerly would have --  
13 well, you would have been going across the swell  
14 and wave height; so you would have made way to --  
15 more or less towards your destination and made  
16 the passage a lot more comfortable for yourself  
17 and your crew.

18 You could turn around and run, but eventually  
19 you've got to come back again; and conditions  
20 aren't going to change. There's -- you're in the  
21 trade-wind belt over there; so the winds are  
22 pretty constant. Aruba, Bonaire, Curaco are very  
23 well-known for their wind surfing and kite  
24 surfing as a destination because the winds are

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1 consistently blowing throughout the year.

2 You're in a trade-wind belt; so you have very  
3 few days when there's no wind blowing. So those  
4 conditions are, when he left, pretty normal,  
5 around 18 knots, for that area of the Caribbean;  
6 and the only way to get to where he was going was  
7 either heading towards the coast of Venezuela to  
8 sail south or due west, which would be going  
9 straight into the wind and the prevailing current  
10 which blows through the Caribbean and then up the  
11 coast of Florida, or more northerly, which would  
12 have been a fairly standard, quick, easy way to  
13 go or could have sailed the opposite direction of  
14 where he wanted to go, which would be west.

15 So any point west he could have gone; he  
16 could have turned, but that was not his intended  
17 destination.

18 Why would he go backwards? He could have.  
19 Q. Let me just ask a question for clarification.

20 I believe I heard you say west in the same  
21 phrase as you said into the current and  
22 conditions.

23 Did you mean to say east there?

24 A. Well, easterly course would take you into --

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1       directly into the prevailing wind and current,  
2       which would make for a very uncomfortable passage  
3       and cause those who are affected by seasickness  
4       to get sick because it would be a very bumpy or  
5       bouncy ride.

6       Q. Is it possible for a catamaran to sail directly  
7       into the wind?

8       A. No, impossible.

9       Q. What would be --

10      A. A catamaran cannot sail -- sorry.

11      Q. What would be the closest angle to the wind that  
12       a catamaran could sail? Particularly a Catana  
13       like this one.

14      A. I'd say it'd probably get as close to 40 or 50  
15       degrees into the wind. Maybe slightly higher,  
16       but I'd say about 40 thereabouts would be the  
17       closest to the wind.

18      Q. Now, in the course of creating your opinion, did  
19       you look at information and photographs related  
20       to the chart that was in the -- the supplemental  
21       chart that was in the Garmin chartplotter?

22      A. I looked at the photograph of the chart, yes.

23      Q. And what was your opinion when you saw that  
24       photograph?

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1       A. Well, the chartplotter looked like it had been  
2       submerged in water and damaged when they pulled  
3       it out; so I think any information on that  
4       chartplotter would be irrecoverable, but the  
5       chart and the data on the chart is usually for  
6       the entire Caribbean.

7       Q. Was it your understanding that there were  
8       adequate charts or was adequate information in  
9       that chart chip for a recreational sailor who  
10       would be traveling in the Eastern Caribbean?

11      A. Yes, the chart chip that he had in there was full  
12       of the windward and leeward islands which would  
13       have covered Dominican Republic and probably  
14       covered the Bahamas and Turks and Caicos as well.

15      Q. Did it also cover the area of the Caribbean  
16       intended for the voyage where it would cover the  
17       islands of Venezuela, the islands from Grenada  
18       north all the way to Saint Martin?

19      A. Yeah, due to the fact that he left Aruba, he  
20       would have had charts for that region on his  
21       chartplotter. So he would have had the entire  
22       Caribbean basin.

23      Q. In your experience, is it the common or expected  
24       practice of a recreational sailor to update

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1 supplemental chart chips every time the company  
2 comes up with an update?

3 A. You can go online and update those chips if you  
4 have a USB and a card reader. Usually the --  
5 when you buy the chart in that form, the chip  
6 comes with a USB so you can go online to the  
7 website and pay for upgrades or whatever they  
8 adjust the charts with.

9 Q. Is it your understanding that that would be a  
10 standard practice or something that is less  
11 commonly done by recreational sailors?

12 A. It's commonly done by recreational sailors.

13 Q. Would you consider the chart -- the 2015 chart  
14 that was in the vessel --

15 A. Yeah, that chart itself might have been  
16 manufactured in 2015 since it's dated that way,  
17 but if you go online with the chart, you can  
18 update charts on your chartplotter.

19 So you download the charts online, and you  
20 transfer them over to your chartplotter on the  
21 cloud or the memory slot, and it keeps everything  
22 updated.

23 I just did that on my vessel the other day.  
24 You don't need to buy a new set of charts. You

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1 use the same chart to download the current charts  
2 online. It just updates your charts to the  
3 latest -- the latest information out there for  
4 that region.

5 Q. Are you aware -- if the chart's then updated in  
6 the manner you're describing, would the chip  
7 itself reflect that? Or would you have to go  
8 into the information in the chartplotter to know  
9 whether that update was made?

10 A. The information in the chartplotter would be  
11 where you'd get it from. It would show you when  
12 updates were done and what the latest -- what  
13 version of charts you have on -- on the  
14 chartplotter.

15 Q. Okay. So if the chartplotter no longer works  
16 because it's been destroyed, it's not possible to  
17 tell whether the chart was updated; is that  
18 correct?

19 A. Yeah, I would think that, because you wouldn't be  
20 able to turn it on to let you know what the last  
21 update was and what updates are available.

22 Q. Okay. Now --

23 A. I'm saying you need to be able to turn it on.

24 Q. Based on the -- when you gave your report, you --

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1 you reviewed a number of things including  
2 Mr. Andersson's deposition, Mr. Ball's report,  
3 and a number of things which were delineated; and  
4 you see the report before you.

5 Is that report your opinion as an expert  
6 sailor with a great deal of sailing experience in  
7 catamarans about the status of the conditions, et  
8 cetera, during the voyage and what you believe to  
9 be the truth?

10 A. I'm sorry. Could you repeat the question.

11 Q. Yeah. And I'll -- I'll retract that question.

12 Having reviewed the things you reviewed, is  
13 the written report which we've been looking at an  
14 expression of your opinion as an expert based on  
15 what you reviewed?

16 A. Of my report?

17 Q. Your report.

18 A. Yes.

19 Q. Is it your opinion?

20 A. Yes, it's my opinion from having sailed those  
21 waters and being based down there and having  
22 taken boats from the Caribbean to South America  
23 and from delivering boats from South Africa to  
24 the Caribbean and to the US, it's my view that

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1 the conditions in my report are fairly accurate  
2 as to the way I'm reading it and why it got to  
3 where it got.

4 MS. NIEMEYER: Okay. I have no further  
5 questions.

6 MR. GOLDMAN: I have nothing. I think we're  
7 done.

8 (Geiger Exhibit No. 44 was marked for  
9 identification.)

10 (Conclusion of proceedings at 10:01 a.m. this date.)

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21        Dated at \_\_\_\_\_, this \_\_\_\_ day  
22    of \_\_\_\_\_, 20\_\_\_\_.  
23

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24 Otto A. Geiger